United Nations A/HRC/36/G/3

General Assembly

Distr.: General
19 July 2017

Original: English

**Human Rights Council**
**Thirty-sixth session**
11-29 September 2017
Agenda item 6
**Universal periodic review**

## Letter dated 23 May 2017 from the Permanent Representative of Mauritius to the United Nations Office at Geneva addressed to the President of the Human Rights Council

I have the honour to attach herewith the comments of the Government of the Republic of Mauritius in relation to the response of the United Kingdom of Great Britain and Northern Ireland to the statement made by the Republic of Mauritius at the universal periodic review of the United Kingdom of Great Britain and Northern Ireland, held on 4 May 2017 (see annex).

I would be grateful if the present letter and the annex thereto* could be circulated as a document of the thirty-sixth session of the Human Rights Council.

(*Signed*) Israhyananda **Dhalladoo**

Ambassador, Permanent Representative

* Reproduced as received, in the language of submission only.

GE.17-12208(E)
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## Annex to the letter dated 23 May 2017 from the Permanent Representative of Mauritius to the United Nations Office at Geneva addressed to the President of the Human Rights Council

## Comments of the Government of the Republic of Mauritius in relation to the United Kingdom's response to the statement made by the Republic of Mauritius at the universal periodic review of the United Kingdom on 4 May 2017

The Government of the Republic of Mauritius reiterates that the Chagos Archipelago, including Diego Garcia, has always formed and continues to form an integral part of the territory of the Republic of Mauritius. The Chagos Archipelago was illegally excised from the territory of Mauritius prior to its accession to independence, in violation of international law and United Nations General Assembly Resolutions 1514 (XV) of 14 December 1960, 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967. In the wake of this excision, the Mauritians living in the Chagos Archipelago were forcibly removed and sent to the main Island of Mauritius and Seychelles in inhumane conditions.

The Government of the Republic of Mauritius reaffirms that it does not recognise the so-called "British Indian Ocean Territory" (or the so-called "British Island Ocean Territory" in so far as this term purports to refer to the Chagos Archipelago) and rejects the purported sovereignty claim of the United Kingdom over the Chagos Archipelago.

In fact, two of the five members of the Arbitral Tribunal in the case brought by the Republic of Mauritius against the United Kingdom under the United Nations Convention on the Law of the Sea concluded that the United Kingdom does not have sovereignty over the Chagos Archipelago. The three other members expressed no view as to which of the two States has sovereignty over the Chagos Archipelago.

The continued unlawful occupation of the Chagos Archipelago by the United Kingdom represents an obstacle to the completion of the decolonisation of Mauritius and to the resettlement of Mauritians, particularly those of Chagossian origin.

While the United Kingdom has repeatedly given a legally binding undertaking that the Chagos Archipelago will be returned to the Republic of Mauritius when no longer required for defence purposes, it has failed to provide clarity on the date of such return. Moreover, the criteria for determining whether the Chagos Archipelago is still required for defence purposes keep changing. The Government of the Republic of Mauritius also wishes to point out that the Chagos Archipelago, in particular the island of Diego Garcia, was made available by the United Kingdom to the United States of America initially to set up a limited naval communications facility and over time it has been developed into a naval support facility and subsequently into a full-fledged military base. Diego Garcia was used as a transit point after September 2001 for rendition of persons to countries where they risked being subjected to torture or ill-treatment.

The UK Government has been systematically denying Mauritians of Chagossian origin their right to return to the Chagos Archipelago by invoking, inter alia, security reasons despite the fact that nationals from third countries are employed and are living in Diego Garcia. In 2010, the United Kingdom took a unilateral decision to declare a 'marine protected area' ('MPA') around the Chagos Archipelago with the clear intention of preventing resettlement in the Archipelago. The 'MPA' has been held to be in breach of international law in the case brought by the Republic of Mauritius against the United

Kingdom under the UN Convention on the Law of the Sea; the United Kingdom has so far not respected this ruling. In November last year, the United Kingdom further announced its decision against resettlement in the Chagos Archipelago and the funding over the next ten years of a purported £40 million package which is said to be intended to support improvements to the livelihoods of members of the Chagossian community living outside the Chagos Archipelago. The UK's continued denial of the right of Mauritians, particularly those of Chagossian origin, to settle in the Chagos Archipelago constitutes a blatant violation of human rights.

The United Nations General Assembly has included on the agenda of its current session item 87 entitled "Request for an advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965". Item 87 was included by consensus on the General Assembly agenda following an understanding reached in New York last September between the Republic of Mauritius and the United Kingdom with the President of the General Assembly to defer, at the request of the United Kingdom, the consideration of the item until June 2017 in order to allow the United Kingdom to engage with Mauritius to reach an agreement on the completion of the decolonisation of the Republic of Mauritius and the exercise of full sovereignty by the Republic of Mauritius over the Chagos Archipelago.

The dismemberment of the territory of Mauritius by the United Kingdom prior to independence is a matter of direct interest to the entire United Nations General Assembly which has historically played a central role in addressing decolonisation. An Advisory Opinion of the International Court of Justice would assist the General Assembly in fulfilling its continuing responsibility in respect of decolonisation. The Government of the Republic of Mauritius therefore considers that recourse by the UN General Assembly to the ICJ is fully justified.

The Republic of Mauritius has engaged in good faith in talks with the United Kingdom, following the above-mentioned understanding reached last September. The Government of the Republic of Mauritius is deeply disappointed that no progress has been achieved although three rounds of talks have been held.

The proposal made by the United Kingdom on "joint management of the outer islands" of the Chagos Archipelago is in fact academic and merely concerns joint stewardship in respect of environmental protection, conservation and promotion of marine and land biodiversity; development of sustainable management of fishery stocks in the waters of the Chagos Archipelago; and observation of natural phenomena in the region and such stewardship in the United Kingdom's proposal does not include the island of Diego Garcia and its maritime zones.

As for the United Kingdom's proposal on bilateral defence engagement, it relates to training and defence cooperation, covering areas including maritime and aviation security, port security, and governance.

The Republic of Mauritius has made it clear to the United Kingdom that these proposals are not acceptable as they do not address the very objective of the talks, namely the completion of the decolonisation process of the Republic of Mauritius and the exercise of full sovereignty by the Republic of Mauritius over the Chagos Archipelago. The Republic of Mauritius has also indicated to the United Kingdom that such proposals can only be considered within an agreed time bound framework for the return of the Chagos Archipelago to the effective sovereign control of the Republic of Mauritius.

However, the United Kingdom continues to maintain its position that it cannot give any date for such return and has thus stalled the talks.

The Republic of Mauritius has, in addition, concretely addressed the defence needs invoked by the United Kingdom and reiterated that it has no objection to the continued use of Diego Garcia for defence purposes in the context of an agreed time bound framework for the return of the Chagos Archipelago to the effective sovereign control of the Republic of Mauritius. Following the stand taken by the United Kingdom during the last round of talks that the military base in Diego Garcia is a joint US-UK base, the Republic of Mauritius has stated that it would be willing, within the framework of the completion of the decolonisation process of the Republic of Mauritius, to guarantee to the United Kingdom and the United States in a binding agreement their continued use of Diego Garcia for defence purposes.

The Government of the Republic of Mauritius considers that in view of the guarantees offered by Mauritius, there is no justification for the United Kingdom to continue its unlawful occupation of the Chagos Archipelago.

The Government of the Republic of Mauritius further considers that in order for the United Kingdom to be in full compliance with its human rights obligations, it will need to take appropriate measures to complete the decolonisation of Mauritius and ensure respect for the right of return of Mauritian citizens, particularly those of Chagossian origin, to the Chagos Archipelago, including Diego Garcia.